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strongly with the doctrine announced by Mr. Justice Harlan in *Norwood v. Baker*, and several times refers to that doctrine as if it were unquestioned; yet it is clear that he is aware that it has been a good deal shaken by the later cases. The author's failure to distinguish the general from the particular is also seen in the frequent citing of decisions without anything to indicate how far they rest on local enactments and how far on principles of universal application. The author sometimes speaks of doctrines as having been announced by one court or another, but gives no inkling as to whether or not the rules so laid down are applicable in other jurisdictions. In dealing with a subject like this, in which statutory and constitutional provisions are all-important, this failure may sometimes result in seriously misleading the reader, whether he be a student, or a practitioner interested in the law of his own jurisdiction.

A further criticism must be made as to the author's want of discrimination in his citations. A few scattering decisions or even statements of text-writers are often given as the sole support for important propositions. For example, as authority for the statement that "municipal corporations are creatures [of the legislature] and over them it is practically omnipotent," Rosewater on Special Assessments is alone cited (p. 122). So, with reference to the rule that an action will "not lie again [*sic*] a municipality for consequential damages caused by the lawful change of an established grade," six cases are cited (p. 116), all of them from Wisconsin except one from Minnesota. *Callender v. Marsh* (1 Pick. (Mass.) 418), commonly cited as the foundation of the whole doctrine, is entirely ignored. Moreover, the same want of finish extends to the purely mechanical aspect of the book. The division of the notes into sub-headings and paragraphs is often illogical and confusing, and sometimes a large amount of miscellaneous matter which seems to have been forgotten at its proper place is brought together in a long note. Typographical errors, too, are many. Not only are misprints abundant, but the notes occasionally fail to jibe with the text. On p. 172, in the midst of a collection of authorities on the "front-foot" rule, appears this paragraph with nothing to indicate how it relates to the subject:

"This was replevin for a bale of buffalo robes. The question of personal liability was not raised."

Again, on p. 228, it is said that "it has been held that a citizen or lot-owner cannot be compelled to keep it [a sidewalk] free from snow at his own expense, even under the police power, or by fine or penalty imposed by ordinance," *Gridley v. Bloomington* (88 Ill. 554) being cited. This seems a rather summary way of disposing of a difficult question, as to which the weight of authority is probably opposed to the case cited, but, when we turn to the note for some reference to the contrary decisions, we find "But see Pick." and nothing more. No doubt the author has in mind the well-known case of *Goddard, Petitioner* (16 Pick. (Mass.) 504), but a fuller citation would require less exercise of imagination on the part of the reader. It is to be hoped that these and other mechanical imperfections will be remedied in a second edition, as they impose a serious handicap upon a book which is not without value, though by no means epoch-making.

H. S. D.

COMMENTARIES ON THE CONSTITUTION OF PENNSYLVANIA. By Thomas Raeburn White. Philadelphia: T. & J. W. Johnson Co. 1907. pp. xxvii, 618. 8vo.

The people of Pennsylvania in the course of their history have had considerable experience in constitution making. William Penn, the proprietor of the Province in colonial times, under his charter from Charles II, had the right to make a form of government by and with the advice and assent of his people. Yet his first plan of government was largely of his own devising, and only in later years were the people able to take an active part. Their final Charter of Privileges, settled upon in the year 1701, was continued until the Revolution, when the patriot party adopted a constitution which was generally regarded as the worst constructed instrument of all the constitutions that

were made in the colonies at that period. It had only one house of legislature, a sort of executive committee instead of a governor, and several other defects. Another constitution was prepared in 1790; another in 1838; another in 1873, under which the people of the state are now living.

All this experience has given us, in Mr. White's book, a very interesting historical introduction. Since he has been a professor in the law department of the University of Pennsylvania, and has had something of a career in reform politics at Philadelphia, he writes from the point of view of a man long accustomed to dealing with public questions. But at the same time his book is thoroughly technical and intended for the practicing lawyer. The cited cases are numerous and well arranged. The chapters and sections bring into view in a clear way all the questions concerning constitutional construction that have been raised in Pennsylvania during the last century. It is by far the most complete and thorough book of constitutional law in Pennsylvania that has yet appeared, and it is doubtful if any other state has produced a book dealing with its constitution in such detail.

S. G. F.

HANDBOOK OF THE LAW OF EVIDENCE. By John Jay McKelvey. Second Edition, Revised. Hornbook Series. St. Paul: West Publishing Company. 1907. pp. xvii, 540.

A review of the first edition of this treatise has already appeared in the REVIEW. 11 HARV. L. REV. 482. It was then pointed out that though the leading original ideas were those of the late Professor Thayer, the writer deserved credit for his power of statement in assembling them in compact form. This second edition is an enlargement of the first. The chief object of this comment is to indicate the additions. In the chapter on "Judicial Notice," the chapter most extensively revised, the writer inserts a section on the effects produced by the application of the doctrine, in which he discusses to what extent a party will be deemed to have knowledge of a fact judicially noticed. In the same chapter appears a separate section on the right of a party adversely affected to disprove facts which a court may judicially notice. And at the end of this chapter a more exhaustive treatment is made of facts that are required to be noticed. In the chapter on the "Burden of Proof," which so clearly states the correct view that it is the burden of proceeding, not the burden of proof, that shifts, the writer adds a section in which his conclusion that negative allegations have no effect on the burden of proof seems as convincing as his treatment of the general subject in the first edition. The rearrangement of the chapter on "Presumptions" brings out the idea, so well presented in the first edition, that no question of evidence is involved. Also, new examples of presumptions are added. The author shows his sense of proportion in the last chapter on "Writings" by devoting several sections to pictorial evidence, in which he discusses its authentication, materiality, and accessibility.

The arrangement of the book with a short statement of the rule of law at the beginning of a section, followed by its elaboration, is well adapted for ready reference. The author's statements are uniformly succinct, and his elucidation of the principles is remarkably clear in its brevity. In one instance, however, it is believed that this brevity is responsible for a wrong impression as to the existing law. On page 429 is the statement that "upon cross-examination of a witness, questions may be put as to the contents of writings previously made by the witness, without the production of the writings themselves." As a statement of what the law ought to be in order to give to cross-examination its proper function, the above is admirable. But such, it would seem, is not the law in the great majority of jurisdictions in this country. It is true that the contrary doctrine, established by "The Queen's Case" (2 B. & B. 284) has been changed in England by statute, but the change has been followed in very few jurisdictions here. The reader is referred to Wigmore for an exhaustive discussion and the cases. 2 Wigmore, Ev., §§ 1259-1264. With the limited space at his command Mr. McKelvey no doubt intended to emphasize the matter as it should